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PART IV

Section 2-B.

MYSORE ACTS AND ORDINANCES AND ORDERS UNDER THE CONSTITUTION BY THE RAJPRAMUKH.

NOTIFICATION.

No. L.D. 913—Legis. 15 51-3, Bangalore, dated 22nd August 1951.

Ordered that the accompanying Mysore Warehouses Act, 1951, which received the assent of the President on the 7th day of August 1951, be published as Act No. XXIX of 1951, in the *Mysore Gazette*, for general information.

MYSORE ACT No. XXIX OF 1951.

THE MYSORE WAREHOUSES ACT,. 1951.

(*Received the Assent of the President on the 7th day of August 1951.*)

An Act to provide for the regulation and licensing of Warehouses in the State of Mysore.

WHEREAS it is expedient to encourage the establishment of warehouses and make provision for their proper supervision and control ; Preamble.

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Mysore Warehouses Act, 1951. Short title, extent and commencement.

(2) It extends to the whole of the State of Mysore.

(3) This section shall come into force at once ; and the rest of this Act shall come into force on such date as the State Government may, by notification in the *Mysore Gazette*, appoint.

2. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(1) " depositor " means a person who tenders his goods to a warehouseman for storing in his warehouse and shall include any person who lawfully holds the receipt issued by the warehouseman in respect of the goods and derives title to it by proper endorsement or transfer from the depositor or his lawful transferee ;

(2) " goods " shall include agricultural and other raw produce, manufactured articles and merchandise ;

(3) " prescribed " means prescribed by rules made under this Act ;

(4) " prescribed authority " means, in relation to any provision of this Act, the authority prescribed by rules to carry out such provision ;

(5) "receipt" means a warehouse receipt in the prescribed form issued by a warehouseman to a depositor showing that certain goods described therein have been deposited in his warehouse;

(6) "rules" mean rules made by the State Government under this Act;

(7) "warehouse" means any building, structure or other protected enclosure which is or may be used for the purpose of storing goods; but does not include cloak rooms attached to hotels, railway stations, the premises of other public carriers and the like;

(8) "warehouseman" means a person who carries on the business of storing produce or goods on behalf of depositors and issues receipts for the goods stored in his warehouse but does not include a pledgee or commission agent.

CHAPTER II.

LICENSING OF WAREHOUSES.

Warehouseman not to carry on business without licence.

3. No person shall, without a licence, carry on the business of a warehouseman or hold himself out as a warehouseman.

Application.

4. Every person desirous of carrying on the business of a warehouseman shall take out a licence for the conduct of such business by making an application to the prescribed authority in the prescribed form.

Security to be given by the applicant.

5. No application for such licence shall be granted unless the applicant furnishes such security as is sufficient in the opinion of the prescribed authority for the proper conduct of the warehouse.

Conditions for the grant of licence.

6. (1) Before granting a licence, the prescribed authority may make any enquiry it considers necessary, and shall satisfy itself,

(*a*) that the warehouse mentioned in the application is suitable for the proper storage of the class or classes of goods for which it is intended;

(*b*) that the applicant is competent to conduct such a warehouse;

(c) that the applicant fulfils any other condition notified by the State Government under sub-section (2);

(d) that the applicant has paid the fee prescribed for the licence and has also furnished the security under section 5; and

(e) that there is no other reason for which the applicant may, in the opinion of the prescribed authority, be deemed to be disqualified.

(2) The State Government may, by notification in the *Mysore Gazette*, add to or alter the conditions under which a licence is granted to a warehouseman.

Term and renewal of licence.

7. Every licence granted under section 6 shall be valid for the prescribed period, and may, on the expiry of such period, be renewed by the prescribed authority on application and on payment of the prescribed fee, provided the conditions in sub-section (1) of section 6 continue to be fulfilled.

Suspension and cancellation of licence.

8. (1) A licence granted under section 6 or renewed under section 7 shall be liable to be suspended or cancelled either temporarily or permanently by the prescribed authority for reasons to be stated in writing and in particular if the warehouseman—

(a) has been adjudged an insolvent, or

(b) has parted in whole, or in part, with his control over the licensed warehouse, or

(c) has ceased to conduct such licensed warehouse, or

(d) has made exorbitant or unreasonable charges for the services rendered by him, or

(e) has in any other manner become incompetent to conduct the business of warehousing, or

(f) has contravened any of the terms of the licence or any of the provisions of this Act and the rules.

(2) The State Government may prescribe any other conditions under which a licence may be suspended or cancelled.

Notice of suspension and cancellation of licence.

9. (1) Before suspending or cancelling a licence under section 8, the prescribed authority shall give notice to the warehouseman of the grounds on which it is proposed to take action and give him a reasonable opportunity of showing cause against it.

(2) After considering the explanation, if any, offered by the warehouseman, the prescribed authority may suspend or cancel the licence or pass such orders as it deems just.

Arrangements for carrying on the warehousing business pending enquiry.

10. The prescribed authority may suspend the licence of a warehouseman pending the decision of the enquiry mentioned in section 9 and make interim arrangements, if necessary, for carrying on the warehousing business.

Return of licence.

11. (1) When a licence expires or is suspended or cancelled the warehouseman shall cease to carry on the business of a warehouseman and shall return the licence to the prescribed authority.

(2) When a licence expires or is suspended or cancelled, the custody of the goods under deposit shall vest in the prescribed authority and such authority shall have the power to settle the claims of the depositors.

Duplicate licence.

12. If a licence granted to a warehouseman is lost, destroyed or damaged, the prescribed authority shall, on the application of the warehouseman and on payment of the prescribed fee, issue a duplicate licence.

Penalty for carrying on business as a warehouseman without a licence.

13. Any person who carries on the business of a warehouseman without a licence, or who without a licence holds himself out as a licensed warehouseman, shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Publication of list of licensed warehouses.

14. The State Government shall publish in the *Mysore Gazette* the names and locations of warehouses licensed under this Act with the names and addresses of the licensees and also a list of all licences suspended or cancelled under this Act.

CHAPTER III.

DUTIES OF A WAREHOUSEMAN.

Reasonable care of the goods deposited to be taken.

15. Every warehouseman shall take such care of the goods deposited with him as a man of ordinary prudence would take of his own goods under similar circumstances and conditions.

Precautions against damage or injury to goods.

16. (1) Every warehouseman shall keep his warehouse clean and in a sanitary condition, and take all necessary precautions against rats and other pests which are likely to cause damage or injury to any of the goods stored in the warehouse, and fulfil such other conditions as may be prescribed.

(2) No warehouseman shall accept for storing in his warehouse goods which are contaminated or infected by worms or pests, and which are likely to cause damage to other goods stored in the warehouse.

Accounts and books to be maintained by warehouseman.

17. (1) Every warehouseman shall keep and maintain in a place of safety such books, accounts and records as may be prescribed, and shall allow them to be inspected in such manner and by such persons as may be prescribed.

(2) Any warehouseman who contravenes sub-section (1) shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

Preservation of identity of goods.

18. Every warehouseman shall exercise such care to keep in his warehouse the goods of different depositors separate from each other so as to permit at all times the identification of the ownership and the maintenance of the quality of the goods deposited and to facilitate easy delivery of such goods on demand by depositors:

Provided that where standardised and graded goods are stored in a warehouse, then, subject to any agreement between the warehouseman and any depositor, the same variety of goods belonging to different depositors may be mingled together and each depositor shall be entitled only to his portion of the goods according to weight or quantity, as the case may be, as shown in his receipt.

Maintenance of warehouse.

19. Every warehouseman shall build and maintain the warehouse in such manner as is laid down in the terms of licence granted to him.

Warehouseman to allow facilities for the depositor to inspect.

20. Every warehouseman shall allow necessary facilities for the depositor to inspect and satisfy himself that his goods are properly cared for.

Goods deteriorating in warehouse and their disposal.

21. (1) Whenever goods stored in a warehouse deteriorate from causes beyond the control of the warehouseman, he shall forthwith give notice of such deterioration to the depositor and of their liabilities to be sold on a specified date and requiring the depositor to take delivery of the goods immediately, after surrendering the receipt duly discharged and paying all charges due to the warehouseman.

(2) If the depositor does not, within a reasonable time, comply with the notice given to him under sub-section (1), the warehouseman may cause the goods to be removed from the warehouse and dried or reconditioned and sold by public auction at the cost and risk of the depositor.

(3) Any person having an interest in any goods deposited in a warehouse or in the receipt covering such goods may notify the warehouseman in writing of the fact and nature of his interest and the warehouseman shall keep a record thereof; and if such person requests in writing that he be given notice regarding the condition of the goods and agrees to pay the charges for giving such notice, the warehouseman shall give him notice accordingly.

Delivery of goods.

22. (1) Every warehouseman shall deliver the goods on demand by the holder of the warehouse receipt, on his offer to satisfy the warehouseman's lien, to surrender the receipt properly endorsed, and to give, when the goods are delivered, an acknowledgment that they have been delivered: provided that where a duplicate receipt has become issuable under this Act but cannot be issued within a reasonable time due to any extraordinary or technical reasons and it is necessary to deliver the goods forthwith to avoid deterioration, a warehouseman may deliver the goods without the receipt being surrendered on terms as to indemnity.

(2) Every such receipt after being so surrendered to the warehouseman shall be defaced by him and no such receipt shall be re-issued:

Provided that it shall be lawful for the warehouseman upon the surrender of such receipt, when part only of the goods is delivered on request, to issue to the depositor a new receipt for the goods remaining undelivered.

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23. (1) Notwithstanding anything contained in any other law, no warehouseman shall, either on his own account or that of others, deal in, or lend money on, goods received by him for deposit in his warehouse. Warehouseman not to deal in or lend against goods in his warehouse.

(2) Any person who contravenes sub-section (1) shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

24. Any warehouseman who delivers any goods out of the warehouse save as provided in section 22 or who re-issues any receipt surrendered to him, shall be punishable with imprisonment for a term which may extend to two years or with fine or with both. Penalty for delivery of goods without surrender of receipt or re-issue of surrendered receipt.

25. Any warehouseman who issues any receipt for goods which are not in his warehouse or who issues two or more receipts for the same goods or who issues receipts for goods in which he has any share or interest or who aids or abets any other person to do so shall be punishable with imprisonment for a term which may extend to three years or with fine or with both. Penalty for issue of receipt for goods not in the warehouse, etc.

26. Every warehouseman shall accept for storage in his warehouse so far as its capacity permits any goods tendered for warehousing by any depositor in the ordinary course of business without showing such discrimination between persons desiring to avail themselves of the facilities of his warehouse as will prejudicially affect their interests: Discrimination prohibited.

Provided that a warehouseman may give preference to or concession in favour of a co-operative society registered under the Mysore Co-operative Societies Act, 1948.

27. Every warehouseman shall insure, in such manner as may be prescribed, the goods stored in his warehouse against loss or damage by fire, floods, theft or any other accident. Insurance of goods in warehouse.

28. Every warehouseman shall have a lien on the goods stored in his warehouse for the cost of storage and preservation of the goods and for all the lawful charges incidental to the business. Warehouseman's lien.

CHAPTER IV

INSPECTION AND CLASSIFICATION OF GOODS.

Inspection.

29. The prescribed authority may inspect or examine a warehouse licensed under this Act, its machinery, equipment, goods stored therein and the account books and records relating thereto, at any time during business hours, for the purpose of satisfying itself that the requirements of this Act and the rules are being complied with.

Licensed samplers, weighers and classifiers.

30. (1) The prescribed authority may issue licences to qualified and competent persons entitling them to act as samplers, weighers and classifiers of any goods stored or to be stored in a warehouse and to issue certificates as to quality, weight or grade of the goods which they have examined.

(2) The certificates issued by samplers, weighers, and classifiers as to quality, weight or grade of the goods stored in the warehouse shall, subject to any order in appeal preferred by either of them to the Board of Arbitrators, be binding on the warehouseman and the depositor.

(3) The prescribed authority may appoint a Board of Arbitrators to decide on any complaints against samplers, weighers and classifiers or warehousemen relating to quality, weight or grade of goods stored in the warehouse. The decision of the Board of Arbitrators shall be final and shall not be liable to be questioned in any court of law.

Suspension or cancellation of licence.

31. Subject to rules made in this behalf, every licence granted to a sampler, weigher or classifier may be suspended or cancelled by the prescribed authority.

Return of licence.

32. Whenever a licence granted to a sampler, weigher or classifier expires, or is suspended or cancelled, he shall return it to the prescribed authority

Prohibition of unlicensed weighers, classifiers, etc.

33. (1) No person who is not licenced under this Chapter shall act or hold himself out as a sampler, weigher or classifier.

(2) Any person who contravenes sub-section (1) shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

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WAREHOUSE RECEIPTS.

Issue of receipts.

34. (1) A warehouseman shall issue a receipt in the prescribed form containing full particulars in respect of the goods stored in his warehouse by each depositor.

(2) The State Government may prescribe the stamp duty that may be levied in respect of a receipt issued under this section.

Receipt transferable by endorsement.

35. A receipt issued by a warehouseman shall, unless specified otherwise thereon, be transferable by endorsement, and shall entitle its lawful holder thereof to receive the goods specified in it on the same terms and conditions as the original depositor.

Duplicate receipt.

36. If a receipt is lost, destroyed or damaged, the warehouseman shall, on application by the depositor and payment of the prescribed fee, issue a duplicate receipt. The duplicate receipt shall be issued under such conditions as may be prescribed.

CHAPTER VI.

MISCELLANEOUS.

No compensation for suspension or cancellation of licences.

37. Where any licence is suspended or cancelled under this Act, the licensee shall not be entitled to any compensation therefor, nor shall he be entitled to any refund of any fee paid by him for the licence.

Contracts and agreements inconsistent with Act to be void.

38. Every contract or agreement which is inconsistent with the provisions of this Act or the rules, shall, to the extent of such inconsistency, be void.

Penalty.

39. Whoever knowingly or wilfully contravenes any of the provisions or requirements of this Act or the rules shall, if no express provision is made by this Act for the punishment of such contravention, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

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Offences by Corporations.

40. Where a person committing any offence under this Act is a company or an association or body of persons whether incorporated or not, every director, manager, secrtary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Appeal to State Government.

41. An appeal shall lie to the State Government within such period and subject to such conditions as may be prescribed against any order passed by the prescribed authority under any of the provisions of this Act.

Act not to affect warehouse under any other enactment.

42. Nothing in this Act shall be deemed to apply to warehouses established or licensed under any other enactment for the time being in force.

Rules.

43. (1) The State Government may, by notification in the *Mysore Gazette*, make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all, or any of the following matters, namely :—

(*a*) the authority empowered to carry out the duties under this Act ;

(*b*) the form of application for the grant of licence to a warehouseman and the period and conditions of licence, its renewal, and conditions for the issue of a duplicate licence ;

(*c*) the form of receipt to be issued by a warehouseman, the particulars to be specified therein and the conditions for the issue of duplicate receipts ;

(*d*) the nature of the accounts, books and records to be maintained by a warehouseman and the persons by whom and the manner in which they may be inspected ;

(*e*) the manner of giving notices under this Act ;

(*f*) the manner of conducting a public auction for the sale of goods deteriorating in a warehouse and accounting for the proceeds of such sale ;

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(*g*) the constitution of the Board of Arbitrators and the procedure to be followed in proceedings before the Board and the mode of executing their award;

(*h*) the qualifications and grant of licences to samplers, weighers and classifiers, the conditions and period of their licences, the form of certificates to be issued by them, renewal of their licences, the conditions under which the licences may be suspended or cancelled and the conditions for the issue of duplicate licences;

(*i*) the amount of fees for the grant of licences under this Act and their renewal and for the issue of duplicate licences;

(*j*) the regulation of the schedule of fees or charges to be levied by a warehouseman for storing goods in the warehouse;

(*k*) the standard weights, measures and classifications of goods to be used in warehouses under this Act;

(*l*) the publication of the grant, suspension or cancellations of licences and the list of licensed warehouses;

(*m*) matters arising out of sub-section (2) of section 11 of this Act;

(*n*) all matters expressly required or allowed by this Act to be prescribed; and

(*o*) generally for the efficient conduct of the business of warehouseman.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

Legal Remembrancer and
Secretary to Government,
Law Department.

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